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Associate General Counsel

NOV 16 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

November 16, 1993

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554

Re: Proposed Revision of Section
69.605 of the Commission's
Rules to Allow Small Cost
Settlement Companies to Elect
Average Schedule Settlement
Status

R. M. No. 8357

Dear Mr. Caton:

Enclosed herewith for filing with the Commission are the original and eleven copies of the National Exchange Carrier Association, Inc.'s Reply in the above-captioned matter.

Please acknowledge receipt hereof by affixing a notation on the duplicate copy of this letter furnished herewith for such purposes and remitting same to bearer.

Very truly yours,

Richard A. Askoff

RAA/bas
Enclosures

cc: ITS

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20054

In the Matter of)
)
Proposed Revision of Section)
69.605 of the Commission's Rules)
to Allow Small Cost Settlement)
Companies to Elect Average Schedule)
Settlement Status)

RM NO. 8357

REPLY

The National Exchange Carrier Association, Inc. (NECA)¹ submits this Reply to comments filed in the above captioned proceeding.²

In its September 13, 1993 Petition for Rulemaking, NECA proposed that the Commission institute a new proceeding to revise its rules so that certain small exchange carriers (ECs) may elect average schedule status effective July 1, 1994. On November 1, 1993, nineteen parties filed comments on NECA's Petition. With the exception of MCI, all support NECA's petition.

Supporting commenters agree that rule revisions that allow qualified small companies to convert to average settlement status would relieve them and their ratepayers of the financial and administrative burdens associated with cost studies.³

¹ NECA is a not-for-profit membership association of local exchange carriers. NECA members serve over 1400 study areas.

² NECA's Petition for Rulemaking (Petition) proposed specific revisions to Section 69.605 of the Commission's Rules (47 C.F.R. § 69.605).

³ Indiana Exchange Carriers Assoc. at 1; Moapa Valley Tel. Co. at 1; National Telephone Cooperative Association (NTCA) at 2; National Utilities, Inc. (NUI) at 4; New Ulm Telcom, Inc. at 1;

Others note that by expanding the universe of average schedule companies, the Commission will extend the benefits of incentive regulation to even more ECs and will serve to strengthen the average schedule process.⁴

In opposing NECA's petition, MCI asserts that NECA "offers no reason to double the limit above the one that has historically defined average schedule companies."⁵ MCI appears to assume that the Commission's rules currently limit average schedule status to companies with 5,000 access lines or less. This, of course, is not the case. While most average schedule companies are quite small, the rules limit average schedule status only to companies that were participating in average schedule settlements on December 1, 1982, regardless of size.⁶

MCI correctly observes that the Commission has, in the past, granted "one time" rule waivers permitting cost companies with 5,000 access lines or less to convert to average schedule settlements.⁷ However, the fact that prior conversion

Organization for the Protection and Advancement of Small Telephone Companies (OPASTCO) at 2; Pattersonville Tel. Co. at 1; TDS Telecom at 1; Siskiyou Tel. Co. at 1; and United States Telephone Association (USTA) at 4.

⁴ Armstrong Tel. Cos. at 1; Barry County Tel. Co. at 1; Blossom Tel. Co. at 1; Chariton Valley Tel. Corp. at 1; Moore and Liberty Tel. Co. at 1; Roanoke, National, Crockett, Peoples and West Tennessee Tel. Cos. at 1; Western Tel. Co. at 1; and Winnebago Tel. Assoc. at 1.

⁵ MCI at 5.

⁶ See 47 C.F.R. § 69.605.

⁷ Id. at 2.

opportunities were limited to companies with 5,000 lines or less does not necessarily mean that all future conversion opportunities should be so limited.

NECA's selection of a 10,000 line limit was based on an analysis of potential impacts on pool revenue requirements and future average schedule settlement levels. As NECA explained in its Petition, allowing companies up to 10,000 lines to convert to average schedules would have a minimal impact on pool revenue requirements (approximately two-tenths of one percent).⁸ In 1987, NECA's analysis showed that approximately the same impact would occur if the threshold were set at 5,000 lines.⁹ Thus, contrary to MCI's claim that NECA has "inexplicably" abandoned its prior concerns, NECA's proposal is consistent with its prior filings and past Commission decisions to allow small cost companies to convert to average schedule status.¹⁰

NECA continues to be concerned both with rate levels and with maintaining the average schedule process for its current participants. The 10,000 line limit is small enough to be

⁸ Petition at 5 n.13.

⁹ See Petitions Seeking Average Schedule Settlements for Affiliated Cost Companies with 5,000 or Fewer Access Lines, Memorandum Opinion and Order, 3 FCC Rcd 6003, 6006 n. 17 (1989).

¹⁰ The difference in conversion impacts between 1988/1989 and now can be attributed to changes in the cost characteristics of small telephone companies. As a result of the changes, fewer companies are expected to convert to average schedule settlements than in 1988/1989. Increasing the limit to 10,000 lines thus provides an opportunity for additional ECs to realize the administrative savings associated with average schedule settlements, without creating material impacts on the pools or future formula levels.

reflective of the average schedule universe, and to avoid large pool revenue requirement impacts.¹¹

MCI further asserts that NECA has not substantiated its estimated cost study savings resulting from implementation of the proposed conversion rule.¹² While NECA does not contend that its cost study estimate is precise, it is nevertheless reasonable and, if anything, conservative.

NECA's estimate was based on the assumption that a cost study for a small telephone company requires approximately one hundred person-days to complete.¹³ Assuming an eight-hour day, an average hourly pay of \$15, including an additional 100% in overhead expenses for benefits, clerical, administrative, and data processing support, plus another \$1,000 in miscellaneous expenses,

¹¹ Selection of an acceptable limit is obviously a matter of judgment. For example, NTCA (at 3) suggests that the Commission increase the proposal to allow conversion up to 20,000 lines. Increasing the threshold in this matter could result in 0.5 - 0.6 percent increases in pool revenue requirements over the short term (offset by additional savings from fewer cost studies), and slightly greater decreases in the average schedule formulas in the long term as lower average cost data from converting ECs are reflected in the formulas.

¹² MCI at 4.

¹³ Annual cost studies involve extensive data collection and maintenance, network monitoring, model development, analysis and report generation. Individual studies are generally required for various network components (e.g., the central office, the loop, interoffice facilities, general support facilities such as land and buildings, computers, motor vehicles and furniture) in order to categorize costs and to complete jurisdictional separations and access element cost allocations.

such a cost study would cost about \$25,000.¹⁴

It is not possible to compute precisely costs that are not incurred. The average schedule process, however, now saves many companies the administrative expenses associated with jurisdictional cost separations studies.¹⁵ Allowing the option to be available to more small companies obviously permits additional administrative savings.

MCI also asserts that NECA has failed to "clarify whether eliminating jurisdictional cost studies could result in overearnings" and that NECA "offers no evidence in support of its contention that average schedules closely and 'reasonably reflect interstate access costs.'" ¹⁶

Each year NECA files revised average schedule formulas and extensive supporting materials that document compliance with

¹⁴ NUI states (at 4) that its cost separations studies cost \$56,000 per year on the interstate side alone, and has filed a separate petition for waiver seeking the opportunity to return to average schedule settlements. Petition of National Utilities, Inc. and Bettles Telephone Co., Inc. for Waiver of Section 69.605(c) of the Commission's Rules, April 13, 1993. NUI further states that it will have additional expenditures of approximately \$50,000 in 1993 if its petition is not granted.

¹⁵ MCI states that it is "curious" that NECA did not include documented reductions in its petition. MCI at 5. Attempts to quantify and document savings associated with settlement conversions would largely be speculative, particularly since the effects of conversions by these telephone companies are relatively small and likely to be masked by other offsetting changes. Each year, however, in compliance with FCC rules and orders, NECA files average schedule and cost company revenue requirement data in its tariff and average schedule filings. These filings accurately reflect revenue requirements in the relevant periods, including the effects of administrative cost savings obtained by conversions from cost to average schedule status.

¹⁶ MCI at 4, quoting NECA Petition at 3.

section 69.606(a) of the Commission's rules.¹⁷ NECA's filings have consistently been approved by the Commission in its annual orders.¹⁸ Thus, there is no need for NECA to "offer evidence" that its formulas reasonably reflect interstate access costs in the context of this proceeding.

Similarly, there is no need for NECA to show whether the formulas include some type of mechanism to adjust for average schedule "overearnings." In its 1993 Average Schedule Order, the Commission explicitly dismissed arguments by MCI to the effect that some type of overearnings "adjustment" mechanism should be included in the schedules.¹⁹ Since the formulas rely on averages, it is expected that some companies will receive interstate access settlements that exceed the settlements they would receive on cost, while others will receive settlements below what they might receive on a cost basis. In the aggregate, however, average schedule companies receive compensation commensurate with the costs of

¹⁷ NECA's annual filings are made on or about December 31 of each year, pursuant to section 69.606(b) of the Commission's rules, and are approved or modified by the Commission prior to their effective date of July 1. See, e.g., National Exchange Carrier Association, Inc., Proposed Modifications to the Interstate Average Schedules, Memorandum Opinion and Order, 8 FCC Rcd 4861 (1993) (1993 Average Schedule Order).

¹⁸ See, e.g., 1993 Average Schedule Order, *supra*; National Exchange Carrier Association, Inc., Proposed Amendment to the Interstate Average Schedules, Memorandum Opinion and Order, 8 FCC Rcd 3122 (1993); National Exchange Carrier Association, Inc. Proposed Modifications to the Interstate Average Schedules, Memorandum Opinion and Order, 7 FCC Rcd 4182 (1992); National Exchange Carrier Association, Inc. Proposed Revisions to the Interstate Average Schedule Formulas, Order, 6 FCC Rcd 4195 (1991).

¹⁹ 8 FCC Rcd at 4863.

providing access service.²⁰

Finally, MCI contends that the proposed rule would allow small ECs to "game the system."²¹ Under NECA's proposal, however, an average schedule company electing to convert to cost settlements after the initial implementation date for the proposed rule change would not be allowed to convert back to average schedule status for four years.

NTCA agrees that the four-year limit included in NECA's proposed rule adequately addresses any concerns about settlement churn and potential negative effects on pooling operations.²² Similarly, USTA points out that the four-year period is consistent with the Commission's recent decision in CC Docket No. 92-135 requiring companies electing to participate in the Optional Incentive Regulation (OIR) plan do so for a minimum of four years.²³ Since OIR treatment is available to all companies not on price caps, regardless of size, NECA believes that applying the same restriction to companies under 10,000 lines should more than adequately address any concern about "gaming the system."

²⁰ See generally Revisions to the Average Schedules Proposed by NECA on October 3, 1988, Memorandum Opinion and Order, 4 FCC Rcd 2804, 2805-08 (1989).

²¹ MCI at 6.

²² NTCA at 2.

²³ USTA at 5.

CONCLUSION

The record in this proceeding shows broad support for NECA's Petition. MCI's opposition appears to be based on erroneous assumptions about the average schedule process and are meritless. The Commission should grant NECA's petition and act quickly to revise section 69.605 of the Commission's Rules to allow small cost companies with fewer than 10,000 lines to elect average schedule settlement status.

Respectfully submitted,

NATIONAL EXCHANGE CARRIER
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By: 

Richard A. Askoff

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Its Attorney

November 16, 1993

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Respectfully submitted,

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By:/s/ Richard A. Askoff
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Its Attorney

November 16, 1993

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing Reply were served this 16th day of November, 1993, by mailing copies thereof by United States Mail, first class postage paid, to the persons listed.

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I hereby certify that copies of the foregoing Reply were served this 16th day of November, 1993, by mailing copies thereof by United States Mail, first class postage paid, to the persons listed.

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